

SUBCHAPTER III. JUVENILE RECORDS.

Article 29.

Records and Social Reports of Cases of Abuse, Neglect, and Dependency.

§ 7B-2900. Definitions.

The definitions of G.S. 7B-101 and G.S. 7B-1501 apply to this Subchapter. (1998-202, s. 6.)

§ 7B-2901. Confidentiality of records.

(a) The clerk shall maintain a complete record of all juvenile cases filed in the clerk's office alleging abuse, neglect, or dependency. The records shall be withheld from public inspection and, except as provided in this subsection, may be examined only by order of the court. The record shall include the summons, petition, custody order, court order, written motions, the electronic or mechanical recording of the hearing, and other papers filed in the proceeding. The recording of the hearing shall be reduced to a written transcript only when notice of appeal has been timely given. After the time for appeal has expired with no appeal having been filed, the recording of the hearing may be erased or destroyed upon the written order of the court or in accordance with a retention schedule approved by the Director of the Administrative Office of the Courts and the Department of Natural and Cultural Resources under G.S. 121-5(c).

The following persons may examine the juvenile's record maintained pursuant to this subsection and obtain copies of written parts of the record without an order of the court:

- (1) The person named in the petition as the juvenile;
- (2) The guardian ad litem;
- (3) The county department of social services; and
- (4) The juvenile's parent, guardian, or custodian, or the attorney for the juvenile or the juvenile's parent, guardian, or custodian.

(b) The Director of the Department of Social Services shall maintain a record of the cases of juveniles under protective custody by the Department or under placement by the court, which shall include family background information; reports of social, medical, psychiatric, or psychological information concerning a juvenile or the juvenile's family; interviews with the juvenile's family; or other information which the court finds should be protected from public inspection in the best interests of the juvenile. The records maintained pursuant to this subsection may be examined only in the following circumstances:

- (1) The juvenile's guardian ad litem or the juvenile, including a juvenile who has reached age 18 or been emancipated, may examine the records.
- (2) A district or superior court judge of this State presiding over a civil matter in which the department is not a party may order the department to release confidential information, after providing the department with reasonable notice and an opportunity to be heard and then determining that the information is relevant and necessary to the trial of the matter before the court and unavailable from any other source. This subsection shall not be construed to relieve any court of its duty to conduct hearings and make findings required under relevant federal law before ordering the release of any private medical or mental health

information or records related to substance abuse or HIV status or treatment. The department may surrender the requested records to the court, for in camera review, if surrender is necessary to make the required determinations.

- (3) A district or superior court judge of this State presiding over a criminal or delinquency matter shall conduct an in camera review before releasing to the defendant or juvenile any confidential records maintained by the department of social services, except those records the defendant or juvenile is entitled to pursuant to subdivision (1) of this subsection.
- (4) The department may disclose confidential information to a parent, guardian, custodian, or caretaker in accordance with G.S. 7B-700.

(c) In the case of a child victim, the court may order the sharing of information among such public agencies as the court deems necessary to reduce the trauma to the victim.

(d) The court's entire record of a proceeding involving consent for an abortion on an unemancipated minor under Article 1A, Part 2 of Chapter 90 of the General Statutes is not a matter of public record, shall be maintained separately from any juvenile record, shall be withheld from public inspection, and may be examined only by order of the court, by the unemancipated minor, or by the unemancipated minor's attorney or guardian ad litem. (1979, c. 815, s. 1; 1987, c. 297; 1994, Ex. Sess., c. 7, s. 1; 1995, c. 462, s. 4; c. 509, s. 5; 1997-459, s. 2; 1998-202, s. 6; 2001-208, s. 10; 2001-487, s. 101; 2009-311, s. 18; 2017-158, s. 23.)

§ 7B-2902. Disclosure in child fatality or near fatality cases.

(a) The following definitions apply in this section:

- (1) Child fatality. – The death of a child from suspected abuse, neglect, or maltreatment.
- (2) Findings and information. – A written summary, as allowed by subsections (c) through (f) of this section, of actions taken or services rendered by a public agency following receipt of information that a child might be in need of protection. The written summary shall include any of the following information the agency is able to provide:
 - a. The dates, outcomes, and results of any actions taken or services rendered.
 - b. The results of any review by the State Child Fatality Prevention Team, a local child fatality prevention team, a local community child protection team, the Child Fatality Task Force, or any public agency.
 - c. Confirmation of the receipt of all reports, accepted or not accepted by the county department of social services, for investigation of suspected child abuse, neglect, or maltreatment, including confirmation that investigations were conducted, the results of the investigations, a description of the conduct of the most recent investigation and the services rendered, and a statement of basis for the department's decision.
- (3) Near fatality. – A case in which a physician determines that a child is in serious or critical condition as the result of sickness or injury caused by suspected abuse, neglect, or maltreatment.

- (4) Public agency. – Any agency of State government or its subdivisions as defined in G.S. 132-1(a).
- (b) Notwithstanding any other provision of law and subject to the provisions of subsections (c) through (f) of this section, a public agency shall disclose to the public, upon request, the findings and information related to a child fatality or near fatality if:
- (1) A person is criminally charged with having caused the child fatality or near fatality; or
 - (2) The district attorney has certified that a person would be charged with having caused the child fatality or near fatality but for that person's prior death.
- (c) Nothing herein shall be deemed to authorize access to the confidential records in the custody of a public agency, or the disclosure to the public of the substance or content of any psychiatric, psychological, or therapeutic evaluations or like materials or information pertaining to the child or the child's family unless directly related to the cause of the child fatality or near fatality, or the disclosure of information that would reveal the identities of persons who provided information related to the suspected abuse, neglect, or maltreatment of the child.
- (d) Within five working days from the receipt of a request for findings and information related to a child fatality or near fatality, a public agency shall consult with the appropriate district attorney and provide the findings and information unless the agency has a reasonable belief that release of the information:
- (1) Is not authorized by subsections (a) and (b) of this section;
 - (2) Is likely to cause mental or physical harm or danger to a minor child residing in the deceased or injured child's household;
 - (3) Is likely to jeopardize the State's ability to prosecute the defendant;
 - (4) Is likely to jeopardize the defendant's right to a fair trial;
 - (5) Is likely to undermine an ongoing or future criminal investigation; or
 - (6) Is not authorized by federal law and regulations.
- (e) Any person whose request is denied may apply to the appropriate superior court for an order compelling disclosure of the findings and information of the public agency. The application shall set forth, with reasonable particularity, factors supporting the application. The superior court shall have jurisdiction to issue such orders. Actions brought pursuant to this section shall be set down for immediate hearing, and subsequent proceedings in such actions shall be accorded priority by the appellate courts. After the court has reviewed the specific findings and information, in camera, the court shall issue an order compelling disclosure unless the court finds that one or more of the circumstances in subsection (d) of this section exist.
- (f) Access to criminal investigative reports and criminal intelligence information of public law enforcement agencies and confidential information in the possession of the State Child Fatality Prevention Team, the local teams, and the Child Fatality Task Force, shall be governed by G.S. 132-1.4 and G.S. 7B-1413 respectively. Nothing herein shall be deemed to require the disclosure or release of any information in the possession of a district attorney.
- (g) Any public agency or its employees acting in good faith in disclosing or declining to disclose information pursuant to this section shall be immune from any criminal or civil liability that might otherwise be incurred or imposed for such action.
- (h) Nothing herein shall be deemed to narrow or limit the definition of "public records" as set forth in G.S. 132-1(a). (1997-459, s. 1; 1998-202, s. 6.)